

PRESENTMENT DATE AND TIME: FEBRUARY 16, 2011 at 12:00 NOON (ET)
OBJECTION DATE AND TIME: FEBRUARY 14, 2011 at 12:00 NOON (ET)

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

**PENZANCE CASCADES NORTH, LLC, *et al.*,

Debtors.**

Chapter 11

**Case No. 10-16643 (REG)

(Jointly Administered)**

**OBJECTION TO NOTICE OF SETTLEMENT OF INTERIM
ORDER (A) AUTHORIZING USE OF CASH COLLATERAL,
(B) GRANTING ADEQUATE PROTECTION, (C) MODIFYING
THE AUTOMATIC STAY AND (D) SCHEDULING A FINAL HEARING**

Green Loan Services LLC ("GLS"), by and through its undersigned counsel, hereby objects (the "Objection") to the Debtor's *Notice of Settlement of Interim Order (A) Authorizing Use of Cash Collateral, (B) Granting Adequate Protection, (C) Modifying the Automatic Stay and (D) Scheduling a Final Hearing*, dated February 8, 2011 (Docket No. 30), in support of the *Debtor's Motion for Entry of Interim Order (A) Authorizing Use of Cash Collateral, (B) Granting Adequate Protection, (C) Modifying the Automatic Stay and (D) Scheduling a Final Order*, dated January 23, 2011 (Docket No. 19) (the "Cash Collateral Hearing"). This Court held a hearing regarding the Motion on January 28, 2011, and a further status conference on February 4, 2011 (the "Status Conference"). In support of the Objection, GLS respectfully states as follows:

GLS objects to three provisions of the proposed interim order (the "Proposed Interim Order"):

- *No Payment of Administrative Expense Fees.* The Proposed Interim Order attaches a Budget that proposes to make administrative expense payments of \$650,000 in May 2011. The Budget does not detail the nature of these payments, but presumably such payments are for the attorneys' fees and expenses of Debtors' counsel. As GLS argued at the Cash Collateral Hearing and Status Conference, it is inappropriate to provide for a carve-out for such fees and expenses where (i) GLS, on behalf of the Mortgage Lenders,¹ has moved to dismiss these cases and to obtain relief from the automatic stay to continue its lawful foreclosure and other remedies under state law, and (ii) the ultimate beneficiary of the Debtors' efforts – Garrison Investment Group – has indicated that it will fund such payments and seek an administrative expense claim therefor.
- *No Characterization of Payments to Mortgage Lenders and Payments to Begin as of February 4, 2011.* At the Status Conference, this Court directed that the Mortgage Lenders be paid bi-weekly payments to compensate the Mortgage Lenders for the risk and delay caused by the 30-day stay of discovery and litigation provided at the request of the Debtors. The Court was clear that these payments were not to be characterized in any manner. Nonetheless, in the Proposed Interim Order, the Debtors characterize such payments as "additional adequate protection . . . against any diminution in the value of the Prepetition Collateral." Proposed Interim Order ¶ 5. Further, the bi-weekly payments should begin as of February 4, 2011, the date on which Debtors sought and obtained the 30-day stay of litigation in these cases.
- *Budget Should Be Modified.* GLS objects to certain payments reflected in the Budget for the months of March, April and May of 2011 as being unnecessary to preserve the value of the Mortgage Lenders' collateral or the Debtors' estates. GLS believes that it may be able to resolve these issues with the Debtors on a consensual basis, and requests that, on an interim basis, only those payments indicated for January and February be authorized.

Attached hereto as Exhibit A is a proposed order that accurately reflects this Court's holdings at the Cash Collateral Hearing and Status Conference, and resolves GLS's objections set forth above. The Budget should be amended to reflect conforming changes pursuant to the further order of this Court.

¹ Terms not otherwise defined herein have the meanings set forth in the Proposed Interim Order.

WHEREFORE, GLS objects to the entry of the Proposed Interim Order and requests that this court enter an order in the form attached hereto as Exhibit A, with the Budget modified as set forth above.

Dated: February 14, 2011
New York, New York

ALLEN & OVERY LLP

By: /s/ Daniel Guyder
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